

Senate Bill No. 1072

CHAPTER 283

An act to amend Section 19605.73 of, to add Sections 19601.02, 19605.74, and 19642.1 to, and to add Article 9.1 (commencing with Section 19604.5) to Chapter 4 of Division 8 of, the Business and Professions Code, relating to horse racing.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1072, Calderon. Horse racing: statewide marketing organization: Breeders' Cup promotion: wagering deduction: exchange wagering.

(1) Existing law authorizes a thoroughbred association or fair, subject to approval by the California Horse Racing Board, to deduct from the parimutuel pool for any type of wager, a specified percentage for the meeting of the thoroughbred association or fair that accepts the wager.

This bill would require every thoroughbred association or fair that conducts a live race meeting to deduct an additional 2% of the total amount handled on exotic wagers requiring the selection of 2 wagering interests, and 3% on exotic wagers requiring the selection of 3 or more wagering interests. The bill would require that these funds be distributed into the purse account of the meet conducting racing in the zones in which the wager was placed, to be used to augment overnight purses.

This bill would require any thoroughbred racing association or fair that authorizes betting systems located outside of this state to accept wagers on a race to retain from the total amount received from the out-of-state betting system, less certain specified deductions made pursuant to existing law, the incremental amount received as a result of the 2% or 3% takeout on exotic wagers required by this bill, for distribution as overnight purses. This bill would require that the method utilized to determine the incremental amount received as a result of the takeout increase be established by agreement between the various affected thoroughbred racing associations and fairs, and horsemen's organizations. If these groups are unable to agree as to the method of determining the incremental amount received, this bill would require the board to determine the allocation method after holding a hearing.

For a thoroughbred association hosting the Breeders' Cup Championship series, this bill would require the amounts collected pursuant to the above provisions requiring that 2% or 3% be deducted from the amount handled on exotic wagers be set aside for the purpose of promoting and sponsoring the Breeders' Cup. The bill would require the thoroughbred racing association hosting the Breeders' Cup to enter into an agreement with the organization that operates the Breeders' Cup regarding the expenditure of

the funds, as provided, and would require a written report be made to the board regarding how the funds were utilized.

(2) Existing law provides that the California Horse Racing Board shall have all powers necessary to carry out the purposes of the Horse Racing Law, such as adopting rules and regulations to protect the public, allocating dates for and controlling horse racing and parimutuel wagering, and enforcing all rules and regulations.

This bill would authorize exchange wagering, defined by the bill as a form of parimutuel wagering in which 2 or more persons place identically opposing wagers in a given market, provided that the entity offering exchange wagering is licensed by the board and has entered into an exchange wagering agreement between the licensee, the applicable racing association or fair conducting live racing, and the horsemen's organization responsible for negotiated purse agreements for the breed on which exchange wagers are accepted, as provided.

The bill would invest the board with the full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California, except that the bill would require the board to develop rules that prohibit certain persons associated with an entrant in a particular race from placing an exchange wager on a race involving that entrant, that prohibit the placing of exchange wagers on previously run races, that require the exchange wagering licensee to provide information to the person placing the wager, that prohibit the use of automatic or quick picks to place an exchange wager, and that prohibit the displaying of the results of a wager using casino themes, as provided.

The bill would allow the board to recover any costs associated with the licensing and regulation of exchange wagering by imposing an assessment on the licensee. The bill would require that these funds be deposited in the Horse Racing Fund, to be available upon appropriation by the Legislature for the sole purpose of regulating exchange wagering.

The bill would prohibit the taking of exchange wagers by an exchange wagering licensee prior to May 1, 2012.

(3) Existing law provides that unclaimed refunds from horse racing are to be distributed to an organization that is responsible for negotiating business agreements on behalf of horsemen, to be held in trust for the purpose of negotiating an agreement with a jockeys' organization to provide health and welfare benefits to California licensed jockeys. Existing law requires that the funds held in trust shall not exceed \$450,000.

Pursuant to the above provision, this bill would require each exchange wagering licensee to annually distribute the greater of \$100,000, or an amount equal to 0.001 multiplied by the total amount of exchange revenue collected by the licensee in that year, to be used for the purposes specified above.

(4) Existing law permits racing associations, fairs, and the organization responsible for contracting with racing associations and fairs with respect to the conduct of racing meetings, to form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, and

to obtain, provide, or defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers. Existing law requires the marketing organization to annually submit to the California Horse Racing Board a statewide marketing and promotion plan and a thoroughbred trainers' workers' compensation defrayal plan for thoroughbred and fair horse racing. Existing law requires 0.4% of the amount handled by each satellite wagering facility to be distributed to the marketing organization for the promotion of thoroughbred and fair horse racing, and to defray the cost of workers' compensation insurance, as specified. Existing law repeals these provisions on January 1, 2011.

This bill would extend the operation of these provisions until January 1, 2014, when they would be repealed. The bill would specify that its provisions allowing for the formation of a private statewide marketing association apply to thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings. The bill would specify that the marketing and promotion activities that the marketing organization may engage in include, but are not limited to, the establishment and maintenance of an Internet Web site, players incentive programs, and the funding of promotional activities at satellite wagering facilities.

This bill would change the amount to be distributed to the marketing organization for the promotion of thoroughbred and fair racing from an amount equal to 0.4% of the amount handled at each satellite wagering facility to an amount not to exceed 0.25%, and would delete the provision allowing for the funds to be used to defray the cost of workers' compensation coverage for stable employees and jockeys of thoroughbred trainers. The bill would require that the initial distribution be 0.2% of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only and would allow the board to adjust this amount to an aggregate of 0.25% of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only.

The bill would, with respect to the statewide marketing and promotion plan, instead require the marketing organization, by November 1 of each year, to submit a written report to the board on the statewide marketing and promotion plan for the upcoming calendar year, and would additionally require the marketing organization to annually present to the board at the board's November meeting a verbal report on the statewide marketing and promotion plan for the upcoming calendar year. The bill would delete the requirement that the marketing organization submit to the board a thoroughbred trainers' workers' compensation defrayal plan. The bill would also require the marketing organization to quarterly submit to the board a written report that accounts for all receipts and expenditures of the promotion funds for the previous 3 months.

(5) Existing law authorizes the board, in performing its responsibilities, to participate in the affairs of associations having as their purpose the interchange of information relating to racing law enforcement, the licensing of horse racing participants, the registration of race horses, the tabulation,

analysis, and publication of statistical information based on parimutuel handles and the distribution of proceeds, and to conduct research regarding horse racing accidents, and the detection of drugs on race horses, among other things.

This bill would provide that, in addition to certain specified distributions, an amount not to exceed 0.05% of the total amount handled by each satellite wagering facility shall be distributed to a nonprofit organization designated by the board for the purposes of maintaining a database of horse racing information to further the purposes of the above provision. The bill would state that the amount distributable to the nonprofit organization shall initially be 0.05% of the total amount handled by each satellite wagering facility and may be adjusted by the board, in its discretion. The bill would require the nonprofit organization to submit an annual budget and file quarterly financial statements with the board.

(6) By imposing new requirements under the Horse Racing Law, the violation of which would be a crime, this bill would create new crimes and would thereby impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The Breeders' Cup Championship series of races is the preeminent series of horse races recognized throughout the world.

(2) From the inaugural running in Hollywood Park 26 years ago, the Breeders' Cup has a rich and vibrant tradition in California, having been run here eight times.

(3) The Breeders' Cup Championship races have, for 2008 and 2009, been held in California and have been an outstanding success, bringing significant revenue and tourism to the State of California.

(4) In 2009, the Breeders' Cup was held at Santa Anita racetrack located in Los Angeles County, where it was attended by over 96,000 fans and telecast to over 130 countries.

(5) The Los Angeles Economic Development Commission, having studied the impact of the Breeders' Cup Championship series being held in California the last two years, has concluded that the events have brought an additional \$60,000,000 in economic impact to the State of California and Los Angeles region each year, through added tourism and other economic impact, and created over 500 direct and indirect jobs.

(6) The Legislature and the Governor of California recognize the importance of the horse racing industry to this state, including the 50,000 jobs associated with the industry, and have taken significant steps to support

the industry, evidenced most recently by the \$40,000,000 in license fee relief provided in 2009.

(7) An additional concern is that horse owners are not bringing their horses to California because of prevailing lower purses and horses are leaving the state in order to compete for higher purses offered in other states.

(8) California has one of the lowest takeouts on conventional win, place, and show wagering, and the takeout on exotic wagering proposed in this bill will be lower than that prevailing in some of the most prominent racing jurisdictions.

(b) It is therefore the intent of the Legislature to encourage the organization operating the Breeders' Cup Championship series to make California the permanent home of the Breeders' Cup Championship series, and it is the intent of the Legislature, through the enactment of this act, to provide substantial support towards that end.

(c) It is also the intent of the Legislature to make it more advantageous for horses to compete in California racing by increasing the amount of funds available for purses. The increased purses will result in a higher caliber of racing with larger and more competitive fields, which, in turn, will improve the attractiveness of California's racing product and generate additional funds for reinvestment in the industry.

SEC. 2. Section 19601.02 is added to the Business and Professions Code, to read:

19601.02. (a) Notwithstanding Section 19610, every thoroughbred association or fair that conducts a live race meeting shall deduct an additional 2 percent of the total amount handled on exotic wagers requiring the selection of two wagering interests, and 3 percent of the total amount handled on exotic wagers requiring the selection of three or more wagering interests.

(b) The funds collected pursuant to subdivision (a) from wagers placed within the inclosure of a thoroughbred association or fair conducting a race meeting, at satellite locations within this state, and from account wagers originating within this state, shall be distributed to the purse account of the meet conducting racing in the zone in which the wager was placed, and distributed in accordance with subdivision (d).

(c) Any thoroughbred racing association or fair, when it authorizes betting systems located outside this state to accept wagers on a race, shall retain from the total amount received by the association or fair from the out-of-state betting system, the incremental amount received as a result of the takeout specified in subdivision (a) for distribution as overnight purses in accordance with subdivision (d) without regard to the provisions of paragraph (1) of subdivision (b) of Section 19602. The method utilized to determine the incremental amount received as a result of the takeout increase specified in subdivision (a) shall be established by agreement between the various affected thoroughbred racing associations and fairs and the applicable horsemen's organization. Should the thoroughbred racing association or fair and the applicable horsemen's organization be unable to reach an agreement as to the method of making such determination, the board shall determine the appropriate allocation method after a hearing on the matter.

(d) The amounts collected pursuant to subdivisions (b) and (c) shall be utilized solely to augment and not supplant overnight purses. Within 90 days after the conclusion of a given meet, the thoroughbred association or fair receiving funds pursuant to subdivisions (b) and (c) shall report to the board the manner in which the funds were used to augment and not supplant overnight purses at that meet.

(e) The board shall have the authority to postpone or revoke the implementation of the takeout increase specified in subdivision (a) if the board determines that the incremental amount that results from the negotiations with the out-of-state betting systems is incrementally insufficient.

SEC. 3. Sections 4 and 5 of this act shall be known and may be cited as the Exchange Wagering Act.

SEC. 4. The Legislature finds and declares all of the following:

(a) The horse racing industry is economically important to California, and the general welfare of the people of California will be promoted by the advancement of horse racing and related projects and facilities in California.

(b) It is the intent of the Legislature, by authorizing exchange wagering in California, to promote the economic future of the horse racing industry in California, and to foster the potential for increased commerce, employment, and recreational opportunities in California.

(c) The Legislature has determined that the California Horse Racing Board is best suited to oversee, license, and regulate exchange wagering in California.

SEC. 5. Article 9.1 (commencing with Section 19604.5) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 9.1. Exchange Wagering

19604.5. (a) As used in this section, the following definitions apply:

(1) "Back" means to wager on a selected outcome occurring in a given market.

(2) "Board" means the California Horse Racing Board.

(3) "Corrective wager" means an exchange wager placed by the exchange wagering licensee in a given market, under circumstances approved by the board, in order to address the impact on that market of the cancellation or voiding of a given matched wager or a given part of a matched wager.

(4) "Exchange" means a system operated by an exchange wagering licensee in which the exchange wagering licensee maintains one or more markets in which persons may back or lay a selected outcome.

(5) "Exchange revenues" means all charges, fees, income, payments, revenues, and deductions of any kind assessed or collected by, or paid or delivered to, an exchange wagering licensee in connection with the submission of any exchange wagers to the exchange wagering licensee by residents of California and residents of jurisdictions outside of California

on the results of horse races conducted in California, and by residents of California on the results of horse races conducted outside of California.

(6) “Exchange wagers” means wagers submitted to an exchange wagering licensee to be posted in a market on an exchange.

(7) “Exchange wagering” means a form of parimutuel wagering in which two or more persons place identically opposing wagers in a given market.

(8) “Exchange wagering account” means the account established with an exchange wagering licensee by a person participating in exchange wagering. An exchange wagering account may only be established or maintained with an exchange wagering licensee by a natural person.

(9) “Exchange wagering agreement” means a written agreement by and among the applicable exchange wagering licensee, the applicable racing association or racing fair conducting live racing in this state, and the horsemen’s organization responsible for negotiating purse agreements for the breed on which exchange wagers are accepted, provided that the terms and conditions for the permitted use of signal by the exchange wagering licensee, and the compensation to the applicable racing association or racing fair and the horsemen’s organization, include provisions for, but are not limited to all of the following:

(A) Calculation of any and all amounts earned and payable to the applicable racing association or racing fair and horsemen’s organization.

(B) Audit rights and conditions.

(C) Duration terms.

(D) Contractual remedies.

(10) “Exchange wagering licensee” means a person located within or outside of California that is authorized to offer exchange wagering to residents of California pursuant to this section.

(11) “Identically opposing wagers” means wagers in which one or more persons offer to lay a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

(12) “Lay” means to wager on a selected outcome not occurring in a given market.

(13) “Market” means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by an exchange wagering licensee.

(14) “Matched wager” means the wager that is formed when two or more persons are confirmed by the exchange operator as having placed identically opposing wagers in a given market on the exchange.

(15) “Net winnings” means the aggregate amounts payable to a person as a result of that person’s winning matched wagers in a pool less the aggregate amount paid by that person as a result of that person’s losing matched wagers in that pool.

(16) “Parimutuel” means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted

by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

(17) “Person” means any individual, partnership, corporation, limited liability company, or other association or organization.

(18) “Pool” means the total of all matched wagers in a given market.

(19) “Price” means the odds for a given exchange wager.

(20) “Unmatched wager” means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

(21) “Zone” has the same meaning as defined in Section 19530.5, as modified by the provisions of subdivision (f) of Section 19601, except that for the purposes of this act the combined central and southern zones shall be considered one “central/southern” zone.

(b) Notwithstanding any other law, rule, or regulation, exchange wagering by residents of California and residents of jurisdictions outside of California on the results of horse races conducted in California, and by residents of California on the results of horse races conducted outside of California, shall be lawful provided that all of the following apply:

(1) Exchange wagering shall only be conducted by an exchange wagering licensee pursuant to a valid exchange wagering license issued by the board.

(2) No exchange wagering licensee shall accept exchange wagers on races conducted in California from a resident of California or a resident of a jurisdiction outside California, or conducted outside California from a resident of California, unless an exchange wagering agreement exists allowing these wagers.

(3) Exchange wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horseracing Act of 1978 (15 U.S.C. Sec. 3001 et seq.), as amended, this section, all applicable federal laws, and rules and regulations promulgated by the board pursuant to this section.

(4) An exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, whether these thoroughbred races are conducted within or outside of this state, to persons whose primary residence address is in the northern zone of this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the northern zone authorized by the board to conduct a live thoroughbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the northern zone of this state, and (B) the horsemen’s organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

(5) An exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, whether these thoroughbred races are conducted within or outside of this state, to persons whose primary residence address is in the central/southern zone of this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the

central/southern zone authorized by the board to conduct a live thoroughbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the central/southern zone of this state, and (B) the horsemen's organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

(6) An exchange wagering licensee may only offer exchange wagering on quarter horse races, whether these quarter horse races are conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the state authorized by the board to conduct a live quarter horse racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and (B) the horsemen's organization responsible for negotiating purse agreements for the live quarter horse racing meeting.

(7) An exchange wagering licensee may only offer exchange wagering on standardbred horse races, whether these standardbred horse races are conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the state authorized by the board to conduct a live standardbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and (B) the horsemen's organization responsible for negotiating purse agreements for the live standardbred racing meeting.

(8) Exchange wagers are submitted to, and accepted by, an exchange wagering licensee in person, by direct telephone call, or by communication through other electronic media.

(c) A person shall not be permitted to open an exchange wagering account, or place an exchange wager, except in accordance with federal law, this section, and rules and regulations promulgated by the board. Only natural persons with valid exchange wagering accounts may place wagers through an exchange. To establish an exchange wagering account, a person shall be at least 18 years of age and a resident of California or of another jurisdiction within which the placement of exchange wagers would not be unlawful under United States federal law or the law of that jurisdiction.

(d) The board shall approve, as part of the exchange wagering licensee's application for an exchange wagering license, security policies and safeguards to ensure player protection and integrity, including, but not limited to, provisions governing the acceptance of electronic applications for persons establishing exchange wagering accounts, location and age verification confirmation for persons establishing exchange wagering accounts, the use of identifying factors to ensure security of individual

accounts, and the requirements for management of funds in exchange wagering accounts. An exchange wagering licensee may not accept a wager, or series of wagers, if the results of the wager or wagers would create a liability for the exchange wagering account holder that is in excess of the funds on deposit in the exchange wagering account of that holder.

(e) Notwithstanding any other law, rule, or regulation:

(1) The board shall have full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California consistent with this section, including the manner in which exchange wagers may be accepted and the requirements for any person to participate in exchange wagering.

(2) Prior to the board promulgating rules, regulations, and conditions under which exchange wagering may be conducted in California, the board shall consider studies or comments submitted by interested parties on the impact of exchange wagering on parimutuel betting and the economics of the California horse racing industry to assist the board in developing rules, regulations, and conditions for exchange wagering that are in the best interest of the public and the California horse racing industry. The board may set a time frame for comments and studies to be submitted by interested parties and for the board to consider the studies and comments so as to allow sufficient time, in the discretion of the board, to allow for the promulgation of rules, regulations, and conditions for exchange wagering and the issuance of licenses for exchange wagering prior to May 1, 2012.

(3) Notwithstanding paragraph (1), the board shall adopt the following rules:

(A) An owner, authorized agent, trainer, jockey, jockey's agent, driver, or stable employee shall not place an exchange wager to lay any entrant in a horse race that is owned in whole or part by that owner or the owner represented by that authorized agent, trained by that trainer or stable employee, ridden by that jockey or the jockey represented by that jockey's agent, or driven by that driver.

(B) No exchange wagers shall be placed on a market after the conclusion of a live race. Exchange wagering on previously run races is prohibited.

(C) The exchange wagering licensee shall provide a person with information on the race, including the track where the race will take place and the names of the participating horses before the person may place an exchange wager.

(D) The exchange wagering licensee shall require the person making the exchange wager to select the specific race and horse for the wager. The use of automatic, quick-pick, or similar features to aid in the placing of a wager shall be prohibited.

(E) The results of a wager shall not be displayed through the use of video or mechanical reels or other slot machine or casino game themes, including, but not limited to, dice games, wheel games, card games, and lotto.

(4) The board shall have full power to prescribe rules, regulations, and conditions under which all exchange wagering licenses are issued or renewed in California, including requiring an annual audit of the exchange wagering

licensee's books and records pertaining to exchange wagering, and to revoke, suspend, or refuse to renew a license pursuant to the authority granted to the board in this chapter.

(5) The board may reasonably require licensure or registration of officers or directors of any exchange wagering licensee.

(6) The board may recover any costs associated with the licensing or regulation of exchange wagering from the exchange wagering licensee by imposing an assessment on the exchange wagering licensee in an amount that does not exceed the reasonable costs associated with the licensing or regulation of exchange wagering. Funds received pursuant to this subdivision shall be deposited in the Horse Racing Fund, to be available upon appropriation by the Legislature for the sole purpose of regulating exchange wagering.

(f) (1) The board shall not approve an application for an original or renewal license as an exchange wagering licensee unless the entity, if requested in writing by a bona fide labor organization no later than 90 days prior to licensing, has entered into a contractual agreement with that labor organization that provides all of the following:

(A) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.

(B) The agreement establishes the method by which the exchange wagering licensee will agree to recognize and bargain in good faith with a labor organization which has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California exchange wagering license is required.

(C) The agreement requires the exchange wagering licensee to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California exchange wagering license is required and whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(D) The agreement applies to those classifications of employees who accept or process wagers for which a California exchange wagering license is required whether the facility is located within or outside of California.

(2) (A) The agreement required by paragraph (1) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of paragraph (1).

(B) The requirement in paragraph (1) shall not apply to an exchange wagering licensee which has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an exchange wagering license is required, whether the facility is located within or outside of California.

(3) Permanent state or county employees and nonprofit organizations that have historically performed certain services at county, state, or district fairs may continue to provide those services.

(4) Parimutuel clerks employed by racing associations or fairs or employees of exchange wagering licensees who accept or process any form of wagers who are laid off due to lack of work shall have preferential hiring rights for new positions with their employer in occupations whose duties include accepting or processing any form of wagers, or the operation, repair, service, or maintenance of equipment that accepts or processes any form of wagering at a racetrack, satellite wagering facility, or exchange wagering licensee licensed by the board. The preferential hiring rights established by this paragraph shall be conditioned upon the employee meeting the minimum qualification requirements of the new job.

(g) Notwithstanding any other law, rule, or regulation, an exchange wagering licensee shall not be required to include any pools of exchange wagers in the wagering pools at the racing association or racing fair conducting the races, nor shall an exchange wagering licensee be required to retain, withhold, or take out any amounts from any exchange wagers, except as expressly set forth in the applicable exchange wagering agreement.

(h) Subject to the approval of the board, an exchange wagering licensee shall be permitted to collect exchange revenues in the manner and amounts determined by the exchange wagering licensee, including, but not limited to, assessing a surcharge on any person's net winnings.

(i) Notwithstanding any other law, rule, or regulation, the board shall require all of the following:

(1) Each exchange wagering licensee shall distribute all moneys in each pool, net of any fees, charges, or deductions of any kind assessed or collected by the exchange wagering licensee in connection with matched wagers in that pool, at the conclusion of the race or races associated with that pool.

(2) Each exchange wagering licensee shall distribute the portions of the exchange wagering licensee's exchange revenues as may be required pursuant to the exchange wagering agreement pursuant to paragraphs (2) to (7), inclusive, of subdivision (b).

(3) Fifty percent of the amounts received by a racing association or racing fair from exchange wagering shall be paid to horsemen participating in the meetings conducted by that racing association or racing fair in the form of purses. The allocation of amounts received by a racing association or racing fair from exchange wagering between that racing association or racing fair and the horsemen participating in the meetings conducted by that racing association or racing fair may be modified by a written agreement between those entities.

(4) In addition to payments set forth in paragraphs (1) and (2), each exchange wagering licensee shall distribute, on an annual basis, an amount equal to the greater of (A) one hundred thousand dollars (\$100,000), or (B) an amount equal to 0.001 multiplied by the total amount of exchange revenues collected by the exchange wagering licensee in that calendar year. The distribution shall be made at the direction of the board pursuant to

Section 19612.9. This paragraph shall become inoperative on January 1, 2021, and, as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2021, deletes or extends that date.

(j) An exchange wagering licensee may cancel or allow to be canceled any unmatched wagers, without cause, at any time.

(k) The board may prescribe rules governing when an exchange wagering licensee may cancel or void a matched wager or part of a matched wager, and the actions which an exchange wagering licensee may take when all or part of a matched wager is canceled or voided. The rules may include, but are not limited to, permitting the exchange wagering licensee to place corrective wagers under circumstances approved in the rules adopted by the board. Exchange wagers placed on a market after the start of a race shall be lawful if authorized by the board, racing association, or racing fair conducting the races, and the horsemen's organization responsible for negotiating purse agreements for the breed on which the exchange wager is made.

(l) The provisions of this section shall be deemed to be severable, and if any phrase, clause, sentence, or provision of this section is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this section shall not thereby be deemed to be unconstitutional or invalid.

(m) The board shall promulgate administrative rules and regulations to effectuate the purposes of this section.

(n) No exchange wagering licensee may accept exchange wagers pursuant to this section prior to May 1, 2012.

SEC. 6. Section 19605.73 of the Business and Professions Code is amended to read:

19605.73. (a) Thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings, may form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, including, but not limited to, establishment and maintenance of an Internet Web site featuring California thoroughbred and fair racing, the establishment and administration of players incentive programs for those who wager on thoroughbred association and fair races, and promotional activities at satellite wagering facilities to increase their attendance and handle. While the promotional activities at satellite wagering facilities shall be funded by the marketing organization, they shall be implemented and coordinated by representatives of the satellite wagering facilities and the thoroughbred racing associations or fair then conducting a live race meet. The organization shall consist of the following members: two members, one from the northern zone and one from the combined central and southern zones, appointed by the thoroughbred racetracks; two members, one from the northern zone and one from the combined central and southern zones, appointed by the owners' organization responsible for contracting with associations and fairs with respect to the conduct of racing meetings; and two members, one from the northern zone and one from the combined

central and southern zones, appointed by the organization representing racing and satellite fairs.

(b) The marketing organization formed pursuant to subdivision (a) shall, by November 1 of each year, submit a written report to the board on a statewide marketing and promotion plan for the upcoming calendar year. In addition, the organization shall annually present to the board at the board's November meeting a verbal report on the statewide marketing and promotion plan for the upcoming calendar year. The plan shall be implemented as determined by the organization. The organization shall receive input from all interested industry participants and may utilize outside consultants.

(c) In addition to the distributions specified in subdivisions (a) and (b) of Section 19605.7, subdivisions (a) and (b) of Section 19605.71, and Section 19605.72, for thoroughbred and fair meetings only, from the amount that would normally be available for commissions and purses, an amount not to exceed 0.25 percent of the total amount handled by each satellite wagering facility shall be distributed to the marketing organization formed pursuant to subdivision (a) for the purposes set forth therein. The amounts initially distributed to the marketing organization formed pursuant to subdivision (a) shall be 0.2 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. The amount distributable to the marketing organization may be adjusted by the board, in its discretion. However, the adjusted amounts may not exceed an aggregate of 0.25 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount. Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount. The marketing organization, on a quarterly basis, shall submit to the board a written report that accounts for all receipts and expenditures of the promotion funds for the previous three months.

(d) This section shall remain in effect only until January 1, 2014, and, as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date. Any moneys held by the organization shall, in the event this section is repealed, be distributed to the organization formed pursuant to Section 19608.2, for purposes of that section.

SEC. 7. Section 19605.74 is added to the Business and Professions Code, to read:

19605.74. For every year that the organization operating the Breeders' Cup Championship series chooses to conduct the Breeders' Cup at a race meeting in California, the following, notwithstanding any other provision

of law, shall apply to the race meeting conducting the Breeders' Cup races on days during which Breeders' Cup races are conducted:

(a) The amounts that would have otherwise been distributed to a purse account pursuant to subdivisions (a), (b), (c), and (d) of Section 19601.02 shall be made available for the purpose of promoting and sponsoring the Breeders' Cup.

(b) The thoroughbred racing association hosting the Breeders' Cup shall enter into a written agreement, in consultation and cooperation with the California Tourism Commission and the statewide marketing organization formed pursuant to Section 19605.73, with the organization that operates the Breeders' Cup regarding the manner in which the funds set aside to support and promote the Breeders' Cup are to be expended.

(c) Within 90 days after the holding of each Breeders' Cup, a written report shall be made to the board detailing the manner in which the set-aside funds were utilized to promote and support the Breeders' Cup.

SEC. 8. Section 19642.1 is added to the Business and Professions Code, to read:

19642.1. In addition to the distributions specified in Sections 19605.7, 19605.71, and 19605.72, from the amounts that would normally be available for commissions and purses from wagering on all breeds, an amount not to exceed 0.05 percent of the total amount handled by each satellite wagering facility shall be distributed to the nonprofit organization designated by the board for purposes of maintaining a database of horse racing information to further the purposes of Section 19444. The amount distributable to the nonprofit organization initially shall be 0.05 percent of the total amount handled by each satellite wagering facility and may be adjusted by the board, in its discretion. The nonprofit organization shall annually submit its budget for the ensuing calendar year to the board at its November meeting and shall file quarterly financial statements with the board.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.